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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/979,579

11/16/2001

Alan F. Savicki

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3934

27019

7590

05/25/2006

THE CLOROX COMPANY

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EXAMINER

COZART, JERMIE E

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 05/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/979,579

Applicant(s)

SAVICKI ET AL.

Examiner

Jermie Cozart

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --****Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-58, 63-79, 82, 84-97 and 102-118 is/are pending in the application.
- 4a) Of the above claim(s) 1-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 58, 63-79, 82, 84-97, and 102-118 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 58, 63-69, 79, 82, 84-90, 97, 102-108, and 118 are rejected under 35 U.S.C. 102(b) as being anticipated by Richardson et al. (5,301,394).

Regarding **claims 58, 79, 97 and 118**, Richardson discloses a closure device including a slider (10) and container (B) having two sidewalls (12, 13) including two mating fastening strips (18, 19) arranged to be interlocked over a predetermined length. The fastening strips (18, 19) have a slider (10) slidably disposed on the fastening strips for facilitating the occlusion/deocclusion of the strips when moved along the strips. The fastening strips and slider having an X, Y, and Z axis which are orthogonal (i.e. mutually perpendicular) to one another. The slider is adapted to move in an occlusion direction and comprises a housing (20) having a first side portion, a second side portion and a flexible occlusion member comprising a first leg (21b) for engaging a first fastening strip (19) and a second leg (22b) for engaging a second fastening strip (18), wherein the legs (21b, 22b) extend inwardly in the longitudinal X-axis towards the occlusion direction from the first and second side portions, respectively. The legs (21b, 22b) facilitate the occlusion of the fastening strips when the slider is moved towards an end of the fastening strips (Figure 1-4 and column 3, lines 27+).

Regarding **claims 68, 89, and 107**, Richardson discloses the first leg (21b) flexes for facilitating the attachment of the slider (10) onto the fastening strips (18, 19; col. 4, lines 29-50) in the longitudinal X axis. Regarding **claims 63-67, 82, 84-88, 90, 102-106, and 108**, Richardson discloses the fastening strips (18, 19) being disposed between the first and second legs (21b, 22b). The flexible occlusion member comprising biasing legs (21b, 22b) biased against the strips has a first position prior to attaching/engaging the slider to the strip, and a second position when occlusion member is attached (column 4, lines 35+) to the fastening strip. The second position is deflected from the first position. The second leg (22b) can be inwardly biased for engaging the second fastening strip (18) in the longitudinal X axis. The second position is deflected from the first position.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 70-78, 91-96, and 109-117 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richardson et al. (5,301,394).

Regarding **claims 70-75, 91-96, and 109-114**, Richardson discloses the claimed invention except for explicitly stating that the fastening strips have a first & second width. However, the flexible occlusion member and biased legs (21b, 22b) configuration of Richardson is fully capable of adjusting to (or "take set") any given width of fastening

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strip (18, 19) due to the spring loaded action (col. 4, lines 28-50). Furthermore, fastening strips often times are formed of varying widths due to the imperfections or variations of the plastic forming processes and in fact acknowledged by applicant's specification on page 20, at lines 8-10.

Regarding **claims 76-78 and 115-117**, Richardson disclosed the claimed invention except for the particular type of fastening strip claimed. It would have been an obvious matter of design choice to employ any particular types of fastening strips claimed, since applicant has not disclosed that such fastening strip types solves any stated problem or is for any particular purpose, and it appears that the fastening strips of Richardson would perform equally well. Furthermore, applicant states on page 11, lines 3-5 that "any type of fastening strip" is capable of performing the invention.

#### ***Response to Arguments***

5. Applicant's arguments filed 2/24/06 have been fully considered but they are not persuasive.

Applicant argues that the detents disclosed in Richardson are structurally different and therefore do not anticipate or render obvious claims 58, 79, 97, or 118.

In response, the Examiner maintains that the detents in Richardson are in fact legs (21b, 22b) which extend inwardly in the longitudinal x-axis towards the occlusion direction from the first and second side portions, respectively. A portion of the legs (21, 22b) extends in the longitudinal x-axis towards the occlusion direction as well as along the z-axis as evident by figure 3 below for further clarification. In addition, Applicant has not provided any further structural limitations to distinguish over the legs (21b, 22b) of

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermie Cozart whose telephone number is 571-272-4528. The examiner can normally be reached on Monday-Thursday, 7:30 am - 6:00 pm.

8. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on 571-272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jermie Cozart  
Examiner  
Art Unit 3726

May 22, 2006